

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9226 of 2005

Between:

1. Konda Ramanatha Rao, S/o Late Konda Kotaiah Pantulu garu
2. K.Prabhakar Rao, S/o K.Ramanatha Rao

Both are R/o High 9, Bharathnagar Colony, Hyderabad.

3. K.Vijay Kumar, S/o K.Ramanatha Rao, R/o 12-185, Adarshnagar,
Balanagar, Hyderabad.

.... PETITIONERS

AND

1. The Commissioner, Municipal Corporation of Hyderabad, at Tank Bund
Road, Hyderabad
2. The Assistant City Planner, Town Planning Section, Municipal
Corporation of Hyderabad, Circle V, at Khairatabad, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ in the nature of Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring and setting aside the notices dated 20-04-2005 issued to the petitioners under Section 636 of HMC Act in Lr.No.18/TPS/C5/MCH/2004, Lr.No.19/TPS/C5/MCH/2004 and Lr.No.24/TPS/C5/MCH/2004 on the file of the 2nd respondent as illegal, arbitrary, without jurisdiction, violative of principles of natural justice, violative of Art.300-A of the Constitution of India and contrary to the provisions of HMC

Act; award costs and pass such other order or orders in the circumstances of the case.

Counsel for the Petitioner:MR.K.RAGHUVeer REDDY

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court at the stage of admission made the following :

ORDER:

This writ petition is filed questioning the notices dated 20-04-2005 issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the Act').

Under the impugned notices the petitioners were directed to remove the construction-in-question within a period of three days alleging that the same was constructed unauthorisedly. The petitioners state that the allegation as to the unauthorised constructions is incorrect and without any basis.

This writ petition is filed primarily on the ground that the petitioners were not afforded any opportunity to explain the allegation as to the unauthorized constructions and therefore, the impugned action is arbitrary and illegal.

Having regard to the contention of the petitioners, the learned Standing Counsel appearing for the respondent-Corporation states that the respondent will take the necessary action after affording an opportunity to the petitioners against the proposed action.

In the facts and circumstances of the case, the impugned notices dated 20-04-2005 are set aside and the writ petition is disposed of leaving it open to the respondent-Corporation to issue a show-cause notice under Section 452 of the Act and to take appropriate steps, in accordance with law, after affording due opportunity to the petitioners to explain the alleged unauthorised construction. No costs.

(G. ROHINI, J)

Date: 21-04-2005

ghn

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To

1. The Commissioner, Municipal Corporation of Hyderabad, at Tank Bund Road, Hyderabad

2. The Assistant City Planner, Town Planning Section, Municipal Corporation of Hyderabad, Circle V, at Khairatabad, Hyderabad.

3 Two C.D copies.

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9226 OF 2005

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OPERATIVE PORTION (BY WIRE):

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In view of the facts and circumstances of the case, the impugned notices dated 20-04-2005 are set aside and the writ petition is disposed of leaving it open to the respondent-Corporation to issue show-cause notice under Section 452 of the Act and to take appropriate steps, in accordance with law, after affording due

opportunity to the petitioners to explain the alleged unauthorised constructions. No costs.

(G. ROHINI, J)

Date: 21-04-2005

Note:

Issue wire at party's costs.

Please send the bundle to the Court Masters Section after dispatch of the wire order.

B/o

ghn